

DOR
6.510

DORN SCHUFFMAN, DEPARTMENT DIRECTOR

CHAPTER Human Resources	SUBCHAPTER Employee Processing	EFFECTIVE DATE Sept. 1, 2004	NUMBER OF PAGES 6	PAGE NUMBER 1 of 6
SUBJECT Screening Employee and Volunteers		AUTHORITY: 630.050, 630.160, 105.262, 630.170, 660.317 RSMo	HISTORY See Below	
PERSON RESPONSIBLE Deputy Director, Human Resources			SUNSET DATE : 7/1/2008	

PURPOSE: Prescribes requirements for conducting background screenings of new employees and volunteers, and for reacting appropriately when the background screening reveals information that requires personnel actions. Requirements related to tax compliance do not apply to volunteers.

APPLICATION: Applies to the entire department.

(1) Definitions. In this DOR, terms are defined as follows:

(A) Applicant, a person who has applied for employment or volunteer service at a facility operated by the Department of Mental Health;

(B) Children's Division, a division within the Department of Social Services constituting part of what was formerly known as the Division of Family Services.

(C) Disqualification registry, a list established under section 630.170 RSMo on which DMH records persons who are disqualified from employment due to the abuse or neglect of consumers or due to misuse of funds/property;

(D) Employee disqualification list, a list established under section 660.315 RSMo that records persons who are disqualified from employment due to abuse or neglect in long-term-care facilities; the list was originated under the former Division of Aging but is now attributed by statute to both the Department of Social Services and the Department of Senior Services;

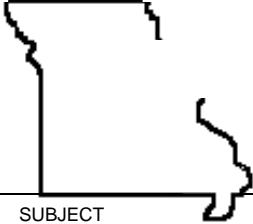

(E) Facility, a residential facility, day program or specialized service or mental health program operated by the Department of Mental Health, including any mental health facility or program operated by the department in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632 RSMo; and

(F) Volunteer, a person who provides unpaid service to clients or a facility, but not including persons participating in sponsored group activities (e.g., civic club sponsored holiday party), or short term programs (e.g., Special Olympics or student service projects).

(2) General requirements.

(A) The requirements for self-disclosure and for background screening under sections (3) and (4) apply only to new applicants. The remaining sections apply to both new applicants and to current employees and volunteers.

(B) If an employee who is required to provide background information under this DOR refuses to furnish any relevant requested information, the employee shall be dismissed for insubordination (i.e., after being ordered and then refusing to answer questions or to provide statements in an investigation). Volunteers refusing to furnish the requested information will not be accepted into a volunteer assignment with the facility. The volunteer will be notified of this requirement and the consequences of non-compliance (i.e., inability to volunteer). The employee shall be given a written directive to complete the requested form prior to dismissal action.

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(3) Self disclosure. All applicants for employment or volunteer service in the department shall -

(A) Answer the question on the employment application "Have you ever been convicted of, found guilty of, pled guilty to or nolo contendere to any law violation other than minor traffic violations?" Appointing authorities shall refuse to hire employees who refuse to answer this question. Appointing authorities may dismiss any employees or volunteers who answer the conviction question "no," but security checks indicate convictions; and

(B) Disclose whether they are listed on any human service employee - disqualification list.

(4) Conducting the background screening.

(A) Each facility shall require all applicants to sign the Authorizations For Release of Information by Law Enforcement Agencies (DMH Form 8150 or comparable form).

1. Each facility shall have individual applicants fingerprinted during employment processing.

2. Facility staff shall enter names and physical descriptions of applicants on fingerprint cards and forward them for processing to the DMH Central HR Office, who will forward them to the Missouri Highway Patrol.

A. The facilities shall obtain fingerprint cards from the DMH Central Human Resource Office.

B. Facility staff may be trained by other personnel of the facility or another department facility. At least two employees per facility should be trained to take fingerprints.

(B) Each facility shall have all applicants complete a Request for Child Abuse or Neglect/Criminal Records MO821-0353N which shall be submitted to the facility personnel officer to review for completion. After the form is completed and signed by the designated facility representative, the form shall be mailed to the DMH Central Human Resource Office.

(C) Prior to making an offer of employment to any applicant the facility shall initiate access to the following -

1. The DMH employment disqualification registry;

2. The Department of Health and Senior Services employee disqualification list (EDL); and

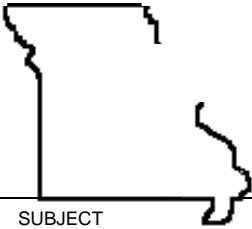
3. Directly or through the DMH Central HR Office, other sources available to check background as necessary, e.g. National Practitioner Data Bank, etc.

(D) Each facility shall require all applicants for employment to complete and sign the department form authorizing the Department of Revenue to release income tax information to the Department of Mental Health. After the form has been completed and signed, the designated facility staff person shall enter the appropriate information into the Department of Revenue Tax Compliance Inquiry System.

(5) Processing Background Screening Information.

(A) The head of the facility shall -

1. Request a Criminal History Record from the Highway Patrol if the background screening reveals a criminal record in Missouri;



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2. Request a check of the applicant's prints by the Federal Bureau of Investigations if the applicant has resided or worked outside the state of Missouri; and

3. Request a check of the Department of Revenue Tax Compliance Inquiry System. This check will be done only when a job offer is going to be made.

(B) For each disqualifying match in the background screening, the facility HR director or designee will contact the applicant in person or in writing to let the applicant know they are ineligible or, if an offer of employment has been made, to withdraw the offer. The facility head and/or the volunteer services coordinator will be notified when applicable.

1. Persons who have committed crimes and offenses listed under section (6) below are disqualified from employment.

2. In accordance with section 105.262 RSMo, persons who are not in compliance with the state tax requirements as indicated by the Missouri Department of Revenue cannot be employed. If an applicant subsequently comes into compliance, that person may be employed.

3. Persons who are listed on the abuse neglect list of the Children's Division, Department of Social Services, are not automatically disqualified from employment; their employability is evaluated according to the guidelines in subsection (5)(C).

(C) If background screening with the Children's Division of the Department of Social Services indicates probable cause that the applicant perpetrated child abuse or neglect, the following guidelines apply.

1. The applicant will be responsible for supplying to the facility HR director a copy of the report on file at the Children's Division office detailing the incident recorded on any match within a reasonable period of time.

2. If the applicant is already providing service as an employee or volunteer, the facility head shall place the employee on administrative leave with pay or place the employee/volunteer in a non-client contact position pending further investigation of the facts of the match if the facility head believes that the safety of the clients might be endangered.

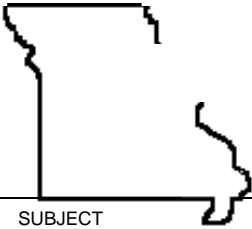
3. The volunteer services director, the HR director, and the facility head shall review the incident recorded for volunteers to make a decision regarding further action (e.g., reassignment or termination of the volunteer based on the details of the incident).

(D) Facility officials shall consult with legal counsel to review every case and discuss appropriate action whenever the results of the background screening appear to call for an personnel action. The head of the facility shall take appropriate action and give notice to the applicant, employee or volunteer with supportive justification.

(6) Offenses which under section 630.170 RSMo disqualify a person from service are as follows.

(A) A person shall be disqualified from holding any position in the facility if that person -

1. Has been convicted of, found guilty of, pled guilty to or nolo contendere to any of the following crimes:



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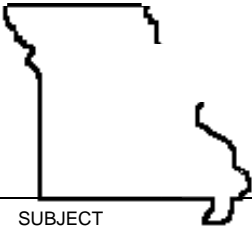
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- A. Physical abuse or Class I Neglect of a patient, resident or client; or
- B. Furnishing unfit food to patients, residents or clients;

- 2. Is listed on the DMH disqualification registry under section 630.170 RSMo; or
- 3. Is listed on the employee disqualification list under section 660.315 RSMo.

(B) A person who has been convicted of, found guilty of, pled guilty to or nolo contendere to any of the following crimes shall be disqualified from holding any position having contact with patients, residents or clients of the facility. The crimes listed below are not disqualifying unless they are felonies, except for failure to report abuse and neglect to the Division of Health and Senior Services, which is a Class A misdemeanor. The disqualifying crimes are:

- 1. First or second degree murder;
- 2. Voluntary manslaughter (includes assistance in self-murder);
- 3. Involuntary manslaughter;
- 4. First or second degree assault;
- 5. Assault while on school property;
- 6. Unlawful endangerment of another;
- 7. First or second degree assault of a law enforcement officer;
- 8. Tampering with a judicial officer;
- 9. Kidnapping;
- 10. Felonious restraint;
- 11. False imprisonment;
- 12. Interference with custody;
- 13. Parental kidnapping;
- 14. Child abduction;
- 15. Elder abuse in the first degree or the second degree;
- 16. Harassment;
- 17. Stalking;
- 18. Forcible rape;
- 19. First or second degree statutory rape;
- 20. Sexual assault;
- 21. Forcible sodomy;
- 22. First or second degree statutory sodomy;
- 23. First or second degree child molestation;
- 24. Deviate sexual assault;
- 25. First degree sexual misconduct;
- 26. Sexual abuse;
- 27. Endangering the welfare of a child;
- 28. Abuse of a child;
- 29. Robbery in the first degree or second degree;
- 30. Arson in the first or second degree;
- 31. First or second degree pharmacy robbery;
- 32. Incest;
- 33. Causing catastrophe;



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34. First degree burglary;
35. Felony count of invasion of privacy;
36. Failure to report abuse and neglect to the Department of Social Services as required under section 198.070, RSMo;
37. Any equivalent felony offense.

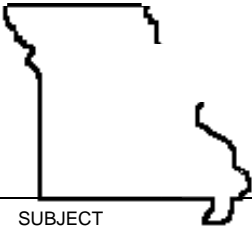
(7) If a facility HR director discovers that a current employee or volunteer is disqualified from employment, the director shall dismiss the employee or volunteer or, if appropriate, transfer that person to a position not involving client contact, using the procedures set out in section(5).

(8) Appointing authorities may refuse to select an applicant for employment or volunteer, may transfer an employee (or volunteer) or may discharge an employee (or volunteer) if criminal record screening or other verified information indicates that the applicant or employee has been convicted of a job-related felony (e.g., applicant or employee convicted of embezzlement should be disqualified from being an accountant).

(9) The appointing authority shall notify the department HR manager and the facility volunteer services director, when appropriate, when refusing to hire an applicant for employment or volunteer services, transferring an employee (or volunteer) or discharging an employee (or volunteer) because of conviction as set out in this DOR. The department HR manager shall coordinate requests for removal from registers of any persons disqualified under this DOR or otherwise by law from working in the department.

(10) Any person disqualified from employment under this DOR may request an exception from the DMH Exceptions Committee in accordance with DOR 6.515 Employment Disqualification Exceptions. The right to request an exception under this section shall not apply to persons who are disqualified due to being listed on the employee disqualification list of the Department of Social Services or Department of Health and Senior Services, nor does it apply to persons who are disqualified due to any of the following crimes:

1. First or second degree murder;
2. First or second degree statutory rape;
3. Sexual assault;
4. Forcible sodomy;
5. First or second degree statutory sodomy;
6. First or second degree child molestation;
7. Deviate sexual assault;
8. Sexual misconduct involving a child;
9. First degree sexual misconduct;
10. Sexual abuse;
11. Incest;



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- 12. Causing catastrophe;
- 13. Abuse of a child;
- 14. First degree pharmacy robbery; or
- 15. Forcible rape.

(11) Each year the Office of Human Resources will analyze data to determine utilization of various screening methodologies and their effectiveness of identifying applicants who do not meet the employment expectation. A report will be completed showing trends, facility participation rates and various turnover rates. The data will be shared with the Divisions of CPS and MRDD in helping plan the background screening progress and its effectiveness

History: Original DOR Effective April 15, 1982. Amendment effective August 13, 1982. Amendment effective April 15, 1990. Amendment effective July 1, 1996. Amendment July 1, 2002. Amendment effective May 7, 2004. Amendment effective June 1, 2004. Amendment effective September 1, 2004.